S.B. CIVIL MISC. APPEAL NO. 671/2006

Date : 13.07.2006

HON'BLE MR. BHAGWATI PRASAD, J.

Mr. Anil Bachhawat for the petitioner.

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Heard.

This appeal is filed against the judgment and award dated 30.09.2005 passed by Motor Accident Claims Tribunal. Learned counsel for the appellant assail the award on the ground that the learned Tribunal has placed no reliance on the witnesses examined on behalf of the appellant. He places reliance on the statement of NAW/1 Kamal. According to this witness, no accident had taken place at Govindi on the fateful day of 21.07.2001. In examination-in-chief, while he has said so, in cross-examination he has said "यह सही है कि दिन मे यदि इसी बस से या दूसरी बस से कोई दुर्घटना हुई हो तो मुझे पता नही | This admission in cross-examination knocks out the bottom of the statement of this witness. Further he is a field worker and repairs fridges. His daily routine is that goes in the morning and returns in the evening. That accident had taken place in the day. That was not the time when this witness would be travelling back as alleged by him. He has given no details of his employment as to where he was employed at Kuchaman or whether he was a free lancer mechanic. Thus, in the light of his admission that he cannot say whether during the day, if the accident had taken place or not, if the trial court has not believed the statement of such a witness, then this Court is of the opinion that no

illegality has been done by the Tribunal.

The other witness relied upon by the learned counsel for the appellant is of NAW/2 Kuldeep Singh, the driver of the bus who has denied that any accident had taken place. Most important fact is that the conductor has not been examined. He was the best witness to corroborate the statement of the driver. The driver being the person prosecuted by the police for causing accident would also try to establish that he did not cause the accident. Therefore, he was a highly interested witness and in absence of the corroboration of the conductor, his statement cannot be relied upon.

The statement of AW/3 Babu Khan who is an independent witness has supported claimant's case and no weakness can be said to e found in his statement. In the face of the statement of AW/3 Babu Khan, the trial court decreed the claim and this Court feels that the claim has rightly been decreed. In that view of the matter, no case for interference is made out. The appeal having no force is hereby dismissed.

(BHAGWATI PRASAD), J.

bjsh